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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87573; File No. SR-NYSECHX-2019-19]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting Rules Relating to Order Audit Trail System Requirements

November 19, 2019

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on November 6, 2019, the NYSE Chicago, Inc. (“NYSE Chicago” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules relating to Order Audit Trail System requirements, and amend Article 11, Rule 4 in anticipation of the Exchange’s transition to trading to the Pillar trading platform. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt rules relating to Order Audit Trail System ("OATS") requirements, and amend Article 11, Rule 4 in anticipation of the Exchange's transition to trading to the Pillar trading platform.⁴ Pillar is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. ("NYSE Arca"), NYSE American, LLC ("NYSE American"), NYSE National, Inc. ("NYSE National"), and New York Stock Exchange LLC ("NYSE") (the "Affiliated Exchanges").

Background

In July 2018, the Exchange and its direct parent company were acquired by NYSE

⁴ The Exchange has announced that, subject to rule approvals, it will transition to trading on Pillar on November 4, 2019. See Trader Update, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-chicago/NYSE_Chicago_Migration.pdf. The Exchange originally filed the proposed rule change on October 31, 2019 (SR-NYSECHX-2019-17) and withdrew such filing on November 6, 2019, and is now submitting this proposed rule change to include additional specificity.

Group, Inc. (“Transaction”).⁵ As a result of the Transaction, the Exchange became part of a corporate family including the Affiliated Exchanges. Following the Transaction, the Exchange continued to operate as a separate self-regulatory organization with rules, membership rosters and listings distinct from the rules, membership rosters and listings of the other Affiliated Exchanges.

The Exchange recently adopted the rule numbering framework of NYSE National rules, which are organized in 13 Rules.⁶ In addition, the Exchange has amended its rules to support the transition of trading in Tape A, Tape B, and Tape C-listed securities from its current trading platform to a fully automated price-time priority allocation model that operates on the Pillar trading platform.⁷ As part of this transition, the Exchange will continue to support Institutional Brokers, as provided for under Article 17, and is updating the Brokerplex system, which is described in Article 17, Rule 5, to interface with the Pillar trading platform.⁸

As described in the Framework Filing, Rule 0 currently provides that the Exchange and FINRA are parties to a Regulatory Services Agreement (“RSA”) pursuant to which FINRA has agreed to perform certain regulatory functions of the Exchange on behalf of the Exchange.⁹ The

⁵ See Securities Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 19, 2018) (SR-CHX-2018-004); see also Securities Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (May 29, 2018) (SR-CHX-2018-004).

⁶ See Securities Exchange Act Release No. 85297 (March 12, 2019), 84 FR 9854 (March 18, 2019) (SR-NYSECHX-2019-03) (Notice of Filing and Immediate Effectiveness) (“Framework Filing”).

⁷ See Securities Exchange Act Release No. 87264 (October 9, 2019), 84 FR 55345 (October 16, 2019) (SR-NYSECHX-2019-08) (Approval Order).

⁸ The term “Institutional Broker” is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange.

⁹ See Rule 0 (Regulation of the Exchange and Participants). The rule also provides that notwithstanding the fact that the Exchange has entered into an RSA with FINRA to

Exchange notes that pursuant to the RSA, FINRA will perform certain regulatory surveillance of trading activity on the Exchange and conduct various regulatory services on behalf of the Exchange, similar to what FINRA has contracted to do for the Affiliated Exchanges.

Notwithstanding the RSA, the Exchange will retain legal responsibility for the regulation of its members and its market and the performance of FINRA as its regulatory services provider.

Because of both the transition to the Pillar trading platform and the regulatory relationship with FINRA, the Exchange proposes to amend specified rules relating to regulatory reporting requirements. First, the Exchange proposes to add new Rules 6.7400 through 6.7470 that are based on NYSE National OATS rules relating to order audit trail system requirements. These OATS requirements are in turn based on the FINRA OATS requirements, and will facilitate the regulatory relationship with FINRA. Second, the Exchange proposes to decommission one of the systems for Institutional Brokers to report certain trading activity on away markets, as specified in Article 11, Rule 4. With this proposed change, Institutional Brokers will continue to be required to report this trading activity, but will no longer be able to submit this data via regulatory drop copies into Brokerplex.

Proposed Rule 6.7400 (Order Audit Trail System)

The Exchange proposes OATS rules based on NYSE National Rules 6.7400 Series, which in turn are based on the FINRA Rules 7400 Series. The proposed NYSE Chicago Rule 6.7400 Series would consist of proposed Rules 6.7410 through 6.7470, which are based on NYSE National Rules 6.7410 through 6.7470 without any substantive differences. The Exchange proposes non-substantive differences throughout the Rule 6.7400 Series to refer to the Exchange instead of NYSE National.

perform certain of the Exchange's functions, the Exchange shall retain ultimate legal responsibility for, and control of, such functions.

- Proposed Rule 6.7410 (Definitions) would set forth definitions used for purposes of the Rule 6.7400 Series and is based on NYSE National Rule 6.7410 without any substantive differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7420 (Applicability) would specify that the requirements of the Rule 6.7400 Series are applicable to all Participants and their associated persons and to all NMS Stocks that trade on the Exchange, and is based on NYSE National Rule 6.720 without any differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7430 (Synchronization of ETP Holder Business Clocks) would require Participants to synchronize business clocks used for purposes of recording the date and time of specified events, and is based on NYSE National Rule 6.7430 without any differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7440 (Recording of Order Information) would require Participants to comply with FINRA Rule 7440 as if such rule were part of the Exchange's rules and is based on NYSE National Rule 6.7440 without any substantive differences other than to refer to Exchange members as Participants rather than ETP Holders.
- Proposed Rule 6.7450 (Order Data Transmission Requirements) would require Participants to comply with FINRA Rule 7450 as if such rule were part of the Exchange's rules and is based on NYSE National Rule 6.7450 without any substantive differences other than to refer to Exchange members as Participants

rather than ETP Holders.

- Proposed Rule 6.7460 (Violation of Order Audit Trail System Rules) would provide that failure of a Participant or associated person to comply with the requirements of proposed Rules 6.7410 through 6.7460 may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade. This proposed rule is based on NYSE National Rule 6.7460 with a non-substantive difference to cross reference Article 9, Rule 2, instead of NYSE National Rule 11.3.1 and to refer to an Exchange member as a Participant rather than an ETP Holder.
- Proposed Rule 6.7470 (Exemption to the Order Recording and Data Transmission Requirements) would provide for how a Participant may apply for an exemption from the Rule 6.7400 Series and is based on NYSE National Rule 6.7470-E without any differences other than to refer to an Exchange member as a Participant rather than an ETP Holder. Proposed Rule 6.7470(c) provides that the rule would be in effect until November 15, 2019, the date prescribed by the National Market System Plan Governing the Consolidated Audit Trail (“CAT NMS Plan”).

The Exchange does not currently require its Participants to maintain order information pursuant to an order tracking system and therefore, does not have the OATS rules or similar rules in its rulebook. The Exchange does not believe that requiring Participants to comply with the OATS requirements would impose an undue burden on such Participants or its associated persons. In fact, Participants that are also FINRA members (“Dual Members”) are already be subject to FINRA’s OATS requirements. Similarly, because the Affiliated Exchanges have rules

based on the FINRA OATS requirements, Participants that are not members of FINRA, but are members of the Affiliated Exchanges will already be subject to such OATS requirements.¹⁰ To the extent an Exchange Participant is not also a member of FINRA, one of the Affiliated Exchanges, or Nasdaq (which also requires compliance with FINRA OATS requirements), the Exchange believes that the OATS requirements for non-FINRA members are not onerous, as order information pursuant to those rules need only be submitted upon request.¹¹

Finally, Institutional Brokers will not have to undertake any additional obligations under the proposed OATS requirements because the Exchange will be providing an OATS-compliant system for Institutional Brokers by updating Brokerplex to automatically capture and report to FINRA the OATS requirements.¹² Accordingly, if an Institutional Broker has not previously been a member of either FINRA or an Affiliated Exchange that has OATS requirements, such Institutional Broker will be able to comply with the OATS requirements. The Exchange-provided OATS system for Institutional Brokers will be available contemporaneous with the transition to trading on the Pillar trading platform.

The Exchange believes that requiring Participants to comply with the OATS rules will further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under the RSA. The proposed sub-numbering of the OATS Rules (i.e., 7410-7470) mirrors the rule numbers for the OATS rules on FINRA, NYSE, and

¹⁰ The Affiliated Exchanges all have substantially similar requirements and the proposed rules are similar to the rules adopted by the Affiliated Exchanges. See NYSE Rules 7410 through 7470; NYSE Arca Rules 6.7410-E through 6.7470-E.; NYSE American Rules 7410 - Equities through 7470 - Equities; and NYSE National Rules 6.7410 through 6.7470. See also Nasdaq Rule 7400A Series.

¹¹ See proposed Rule 6.7450(b).

¹² In preparation for the transition to trading to Pillar, Institutional Brokers have successfully tested the OATS-compliant Brokerplex.

NYSE National.

Proposed Decommissioning of Exchange-Provided Regulatory Reporting Systems

The Exchange currently provides a system that facilitates the ability for Participants to provide reports of specified off-exchange trading activity to the Exchange, as described in Interpretation and Policies .01 to Article 11, Rule 4. The only Participants that use this regulatory reporting system are the Institutional Brokers. With the transition to Pillar, the Exchange proposes to decommission this regulatory reporting system and amend the rules that require use of this specific system. This proposed rule change does not change in any way Institutional Brokers' obligations to maintain records of off-exchange trading activity and report such activity to the Exchange.¹³

¹³ See Article 11, Rule 3.

Specifically, Interpretation and Policies .01 to Article 11, Rule 4 provides that Participants shall not use any electronic means of communication for sending orders from the Exchange to trade in another market or trading venue (which is defined as a “layoff service”), until the Participant or the layoff service provider has established a process for providing the Exchange with specific information relating to the off-Exchange trading activity on a real time basis in an electronic format acceptable to the Exchange.¹⁴ Only Institutional Brokers use such layoff services to engage in single-sided order executions on away markets; such services are unrelated to either qualified contingent trading or contingent trading. The Exchange uses the current Brokerplex system to support reporting of these regulatory “drop copies” from a layoff service.

With the transition to Pillar, the Exchange proposes to decommission the system in Brokerplex that receives regulatory drop copies of off-exchange trading from a layoff service, as described in Interpretation and Policies .01 to Article 11, Rule 4. The Exchange therefore proposes to amend Interpretation and Policies .01 to Article 11, Rule 4 to delete the requirement that Institutional Brokers provide the specified information on a real-time basis in an electronic format acceptable to the Exchange. In lieu of the current system, the Exchange proposes that it will require any Institutional Broker that engages in this trading activity to provide reports of such activity in a format acceptable to the Exchange within a time frame designated by the

¹⁴ See Securities Exchange Act Release No. 52534 (September 29, 2005), 70 FR 58500 (October 6, 2005) (Order Approving Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 Thereto Relating to a Prohibition on Using a Layoff Service Unless the Service Provides Required Information to the Exchange) (SR-CHX-2004-25).

Exchange, which generally would be not later than trade date plus one day.¹⁵

Accordingly, with this proposed rule change, Institutional Brokers will continue to be subject to the requirements of Article 11, Rule 4, which specifies the records that Institutional Brokers must report relating to specified off-exchange trading activity. The proposed rule change eliminates only the interface with Brokerplex to submit these regulatory drop copies on a real-time basis. Such reports would still be required to be submitted to the Exchange, albeit in a different format. Because the Exchange does not currently utilize this data to perform this surveillance in real-time, the Exchange believes that it will be able to maintain its existing surveillance coverage with respect to this trading activity and use the new reports that will be provided by Institutional Brokers to monitor this activity. In other words, the Exchange does not need real-time submission of this information to conduct this surveillance.

In addition, with respect to Institutional Brokers that are also members of FINRA, because such firms would be subject to OATS requirements, any trading on a layoff service would be reported via OATS and available to FINRA as well.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹⁶ in general, and furthers the objectives of Section 6(b)(5),¹⁷ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a

¹⁵ See NYSE Chicago IM-19-06, dated October 29, 2019, available at <https://www.nyse.com/publicdocs/nyse/markets/nyse-chicago/rule-interpretations/2019/Chicago%20Number%2019-06%2010.29.19.pdf>.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed Rule 6.7400 Series, relating to Order Audit Trail System, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule series is based on the approved rules of NYSE National, which are based on FINRA's OATS rules. The Exchange further believes that the proposed OATS rules would promote just and equitable principles of trade as such rules would further promote cross-market surveillance and enhance FINRA's ability to conduct surveillance and investigations for the Exchange under the RSA. The Exchange does not believe that adding the OATS rules to the Exchange would impose a burden on Exchange Participants because Participants that are members of FINRA, one of the Affiliated Exchanges, or Nasdaq, are already subject to OATS requirements under the rules of those SROs. To the extent an Exchange Participant is not also a member of FINRA, one of the Affiliated Exchanges, or Nasdaq, such member would not be subject to ongoing reporting requirements under the proposed OATS rules, and therefore it would not be onerous for such Participants to comply if OATS information were requested in the course of a regulatory inquiry. Finally, because the Exchange will be providing an OATS-compliant system for Institutional Brokers, if an Institutional Broker has not previously been a member of either FINRA or an Affiliated Exchange that has OATS requirements, such Institutional Broker will be able to comply with the OATS requirements.

The Exchange believes that the proposed amendment to Article 11, Rule 4 would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change simply decommissions the use of an exchange system

that accepts regulatory drop copies that would no longer be available once the Exchange transitions to trading to the Pillar trading platform. The Exchange further believes that the proposed rule change would promote just and equitable principles of trade because Institutional Brokers would still be required to maintain records of off-exchange trading activity as specified in that Rule and report such activity to the Exchange. Because Institutional Brokers would still be providing the Exchange with this data, the Exchange would not be changing its surveillances relating to this trading activity. In addition, because the Exchange does not conduct such surveillances in real time, it does not need real-time submission of data to perform these surveillances.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue but rather to provide for rules to support the transition to trading on the Exchange to the Pillar trading platform. The Exchange operates in a highly competitive environment in which its unaffiliated exchange competitors operate multiple affiliated exchanges that operate under common rules. By basing its rules on those of its affiliated exchanges, the Exchange will provide Participants with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platform.

In addition, the Exchange does not believe that the proposed rule change will impose any burden on competition on Participants that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange has proposed non-trading rules based on those of its affiliates, *e.g.*, OATS rules. For those Participants that are already members of FINRA, an affiliated exchange, or Nasdaq, such Participants are already familiar with such rules in

connection with their membership on those SROs. In addition, the Exchange will be providing an OATS-compliant system for Institutional Brokers; therefore, if an Institutional Broker has not previously been a member of either FINRA or an Affiliated Exchange that has OATS requirements, such Institutional Broker will be able to comply with the OATS requirements. Moreover, these proposed rules would provide for greater harmonization among SROs of the rules for investigations and disciplinary matters, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating the Exchange's performance of its regulatory functions. The proposed OATS rules would also facilitate FINRA's performance of cross-market surveillances on behalf of the Exchange.

The Exchange does not believe that amending the regulatory "drop copy" rule would impose a burden competition on Institutional Brokers that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule, which will apply equally to all Institutional Brokers, merely deletes the requirement that Institutional Brokers provide information related to their off-exchange trading activity on a real-time basis in an electronic format acceptable to the Exchange. Institutional Brokers would continue to be required to maintain records of their off-exchange trading activity and in lieu of the current system, Institutional Brokers would be required to provide reports of such activity in a format acceptable to the Exchange within a time frame designated by the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii)

become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²⁰ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)²¹ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change can become effective contemporaneously with the transition to the Pillar trading platform. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

²² For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSECHX-2019-19 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSECHX-2019-19. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2019-19, and should be submitted on or before **[INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Jill M. Peterson,

Assistant Secretary.

²³ 17 CFR 200.30-3(a)(12).

